IN THE HIGH COURT OF BOMBAY AT GOA.

WRIT PETITION NO. 71 OF 2000.

(1) Gorakshwadi-Shantinagar Gramvikas Samitee through its Convenor, Shri Vinayak R. Narvekar, Aquem Baixo, Navelim, Salcete-Goa.
(2) Shri Vinayak R. Narvekar, r/o Aquem Baixo, Navelim, Salcete-Goa.
(3) Shri Shrikant P. Avdi, r/o Aquem Baixo, Navelim, Salcete-Goa. ... Petitioners.

Versus

(1) State of Goa through its Chief Secretary, Secretariat, Panaji.
(2) The Deputy Collector & SDO, Sub-Division, Margao.
(3) The Chief Town Planner, Town and Country Planning Department, Government of Goa, Panaji.
(4) Village Panchayat of Aquem Baixo, Navelim, Salcete-Goa.
(5) Shri Mario Cotta Pereira, c/o Kurtarkar Real Estate, Kurtarkar Towers, Malbhat, Margao. ... Respondents.

Mr. M.S. Sonak with Mr. D. Pangam, Advocates for the Petitioners.

Mr. A.N.S. Nadkarni, Advocate General with Mr. P.A. Kamat, Government Advocate for the Respondents 1 to 3.

Mr. S.K. Kakodkar, Senior Advocate with Mr. J. D'Souza, Advocate for the Intervenor.

Mr. S.D. Lotlikar, Senior Advocate with Mr. R. Sardessai, Advocate for the Respondent No. 5.

Coram : S.A. BOBDE AND
N.A. BRITTO, JJ.

Date : 23rd June 2004.

ORAL JUDGMENT (PER BOBDE, J.)

The petitioners have questioned the conversion

of agricultural lands, namely, Survey Nos. 42/1 to 42/63 admeasuring about 30,000 square metres. In brief, according to the petitioners, the lands have been illegally converted to non-agricultural purpose by obtaining, inter alia, collusive decrees in proceedings where the tenants collusively accepted the position that they were not tenants. As a result of which, they were declared to be not tenants and the lands have been converted to non-agricultural lands. Had there been no such decrees, the lands could not have been converted to non-agricultural lands by virtue of the Goa Land Use (Regulation) Act, 1991.

2. It appears that while this petition was pending, two Writ Petitions filed by Kamat Construction Private Limited, that is, Writ Petition Nos. 291 and 305 of 2000, were disposed off by Order, dated 5th September 2000. By that Order, the Division Bench of this Court permitted the petitioners there to approach the Authority, that is, the Deputy Collector and Sub-Divisional Officer concerned as to whether there was any tenancy on the land in question in that case on the date on which the Goa Land Use (Regulation) Act, 1991 came into force and whether any illegal conversion had taken place.

3. Apparently the Deputy Collector in pursuance

to the Order of this Court had, by Order, dated 28th June 2002, decided the question whether the lands surveyed under Nos. 42/1 to 42/63 were tenanted on the date the Goa Land Use (Regulation) Act, 1991 came into force. This decision has admittedly been arrived at without hearing the petitioners in this case, who apparently did not make any application for being heard before the Deputy Collector. This is indeed an unusual situation. In the circumstances we pass the following Order, by consent of parties:-

4. The Order of the Deputy Collector, dated 28th June 2002, in respect of Survey Nos. 42/1 to 42/63, is, hereby, set aside. The Deputy Collector shall decide the issue whether there was any tenancy on the date on which the Goa Land Use (Regulation) Act, 1991 came into force and whether any illegal conversion has taken place in respect of the aforementioned lands, afresh. The Deputy Collector shall decide the aforesaid issue after affording an opportunity to the petitioners 2 and 3 of producing all such material as may be advised and hearing them. The petitioners 2 and 3 and the respondent no. 5 are directed to appear before the Deputy Collector on 30th June 2004 at 10.30 a.m.. The respondent no. 5 shall maintain status quo in respect of the land till the Deputy Collector decides the matter. The Deputy Collector is directed to decide the

matter within a period of two months from the date the parties appear before him. Needless to say the interim Orders in Writ Petition No. 71 of 2000 stand vacated without vacating the interim Order in connected Writ Petition No. 168 of 2000. The Writ Petition is disposed off. Rule made accordingly.

(S.A. BOBDE)
JUDGE.

(N.A. BRITTO)
JUDGE.

ed's.